

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	<u>ORDER</u>
- v. -	:	S9 20 Cr. 160 (MKV)
JORDAN FISHMAN,	:	
Defendant.	:	

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WHEREAS, the Coronavirus Aid, Relief, and Economic Securities Act ("CARES Act") findings made by the Judicial Conference of the United States, the February 24, 2021 presidential proclamation, and the March 11, 2021 Standing Order of then-Chief Judge Colleen McMahon of the Southern District of New York allow for guilty pleas to be taken by video or telephone conference, subject to certain findings made by the District Judge; see Southern District of New York Fourth Amended Standing Order, 20 MC 176, March 11, 2021;

WHEREAS, an application was made by the United States of America in advance of a change of plea conference for defendant Jordan Fishman, seeking to proceed with that colloquy by videoconference pursuant to Section 15002 *et seq.* of the CARES Act. See H.R. 748, Section 15002 *et seq.*, P.L. 116-136, signed into law on March 27, 2020 (noting that if "the district judge in a particular case finds for specific reasons that the plea . . . in that case cannot be further delayed without serious harm to the

interests of justice, the plea . . . may be conducted by video teleconference, or by telephone conference if video teleconferencing is not reasonably available");

WHEREAS, in support of that application, the Government submitted on behalf of the parties a September 29, 2021 affirmation and application setting forth facts establishing specific reasons to proceed with the defendant's change of plea proceeding via a video teleconference, and noted that the defendant consents to a remote proceeding;


THE COURT HEREBY FINDS that because the defendant consented to proceeding remotely, and for the reasons set forth in the Government's submission, the proceeding cannot be further delayed without serious harm to the interests of justice;

IT IS HEREBY ORDERED that the Government's application on behalf of the parties to proceed with the defendant's change of plea proceeding via video or teleconference is granted for the reasons stated in the application; and

IT IS FURTHER ORDERED that the Government's September 29, 2021 application shall be maintained under seal pending further order of the Court.

SO ORDERED:

Dated: New York, New York
October 6, 2021



HONORABLE MARY KAY VYSKOCIL
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA	:	<u>SEALED</u>
	:	<u>AFFIRMATION</u>
	:	<u>AND APPLICATION</u>

- v. -

JORDAN FISHMAN,	:	S9 20 Cr. 160 (MKV)
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Defendant.

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Andrew C. Adams hereby affirms, under penalty of perjury and pursuant to Title 28, United States Code, Section 1746, as follows:

1. I am an Assistant United States Attorney in the office of Audrey Strauss, United States Attorney for the Southern District of New York, and I am familiar with this matter. By this affirmation, the Government applies for an order under the Coronavirus Aid, Relief, and Economic Securities Act (the "CARES Act") on behalf of both parties to proceed with the defendant's change of plea proceeding via video teleconference pursuant to Section 15002 *et seq.* of the CARES Act, and to maintain this affirmation and application under seal pending further order of the Court, given that it discusses issues related to the defendant's health.

2. Pursuant to Section 15002 et seq. of the Coronavirus Aid, Relief, and Economic Securities Act ("CARES Act"), guilty plea proceedings may proceed by video teleconference, or telephone conference if video teleconferencing is not reasonably available, with the consent of the defendant and a finding by the district court judge that further delay of the proceeding will result in serious harm to the interests of justice. See H.R. 748, Section 15002 et seq., P.L. 116-136, signed into law on March 27, 2020 (noting that if "the district judge in a particular case finds for specific reasons that the plea . . . in that case cannot be further delayed without serious harm to the interests of justice, the plea . . . may be conducted by video teleconference, or by telephone conference if video teleconferencing is not reasonably available"); see also Southern District of New York Fourth Amended Standing Order, 20 MC 176, March 11, 2021.

3. On or about February 26, 2020, a grand jury in this district returned an indictment charging the defendant, among others, with conspiracy to violate the misbranding and drug adulteration laws of the United States, in violation of Title 18, United States Code, Section 371, in the case United States v. Jorge

Navarro et al., 20 Cr. 160 (MKV), among other charges. The defendant, Jordan Fishman, was arrested on or about March 9, 2020.

4. The defendant now intends to enter a change of plea to a superseding Information, pursuant to a plea agreement with the Government.

5. Having conferred with defense counsel, who consents to a remote change of plea proceeding, the Government respectfully submits that the defendant's interest in expeditiously resolving the criminal charges previously filed against him, which have been pending since March 2020, and bringing this matter to a conclusion constitute "specific reasons" within the meaning of Section 15002 et seq. of the CARES Act, sufficient to proceed with a video teleconference.

6. The Government further submits that reasons identified in the March 11, 2021 Standing Order of then-Chief Judge Colleen McMahon of the Southern District of New York regarding the state of vaccinations in the New York area and the ongoing health risks posed by the COVID-19 pandemic, coupled with the defendant's medical issues, constitute additional "specific reasons" within the meaning of Section 15002 et seq. of the CARES Act, sufficient to proceed with a video teleconference. The defendant, who over

sixty years old, resides in Massachusetts, has a reported history of bronchial conditions and obesity.

7. Accordingly, the Government respectfully requests that the Court enter the accompanying Order granting the Government's application for a remote change of plea proceeding.

Dated: New York, New York
September 30, 2021



Andrew C. Adams
Assistant United States Attorney
Southern District of New York
(212) 637-2340